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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,388	02/20/2002	J. David Carlson	IR-2881(EV)	8462
193	7590	08/23/2004	EXAMINER	
LORD CORPORATION PATENT & LEGAL SERVICES 111 LORD DRIVE CARY, NC 27512			BUTLER, DOUGLAS C	
			ART UNIT	PAPER NUMBER
			3683	

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/079,388

Applicant(s)

CARLSON ET AL.

Examiner

Douglas C. Butler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Prosecution on the merits is reopened in view of the newly discovered prior art.
2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
3. The amendment filed 06/21/2004 has been entered.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson(US006151930), of record, in view of Holper(2960190), both of record.

Carlson discloses a damper including field controllable medium but does not disclose a safety backup brake, which is brought into operation, should the power to the MR damper fail.

Holper discloses the use of a brake brought into operation should the power to fail.

It would have been obvious at the time the invention was made to one having ordinary skill in the art to which the invention pertains to modify the apparatus of Carlson to include a spring biased brake similar to that of Holper to slow the movable

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member (washing machine drum or cylinder) of Carlson should the power be lost in order to provide for a safety backup.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Dufresne (4232768), newly cited.

Upon loss of power to the field controllable brake or damper 115 of Figure 3 of Dufresne, secondary brake or damper 275 by way of a contact end 275 limits relative displacement or motion of the drum 115.

See column 7 of Dufresne, which states:

It can be seen that if one of the solenoid pairs malfunctions, the connecting rod 181 also operates to work the malfunctioning brake. Thus, as shown in FIG. 6, when the right hand emergency solenoids 96' and 97' fail to operate and release the spring 169' to provide braking, the left hand brake frame 151 pulls the rod 181 to the left via the stop rods 193 when its main brake solenoids 96 and 97 operate. As the rod 181 is pulled to the left brake pad 143 is moved against the drum via frames 117 and 151.

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8. Claims 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Aipperspach (DE004202721A1).

Aipperspach discloses a damper with safety brake backup 3,3' in case of power failure. See Figures 1-2 and the abstract, which states:

"A friction damper for washing machines incorporates at least one brake body (3) Which adjoins a housing in the damping position and is subject to a spring Force. The friction force with which the brake body (3) adjoins the housing (2) can be adjusted by means of an integrated electric adjusting drive (9, 10, 11, 12).

The friction force can be adapted to vibrations of different strengths so that wear and additional noise are eliminated.

Friction damper for machines, more especially washing machines, including at least one braking body which abuts against a housing under resilient force, at least in the damping position, the frictional force, by means of which the braking body (3; 3') abuts against the housing (2; 2'), being adjustable in respect of its magnitude by an electrical adjustment drive (9, 10, 11, 12; 11'; 12') incorporated therein, characterised in that, in the event of a power failure and/or a failure of the drive, the braking body (3; 3') can be brought into the damping position in a mechanical manner by the effect of the oscillation energy to be damped. "

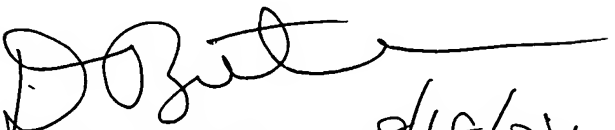
9. Applicants should note that the examiner has requested a translation of the above applied non-English reference from STIC within the USPTO and intends to attach a copy of the translation with the next office action, if available. Should applicant obtain a translation independently of the USPTO, a copy of it should be forwarded to the examiner for inclusion in the file.

10. Fuse (5207081) discloses a damper with a brake 37 that is spring biased into engagement. See column 5, lines 37-52 of Fuse.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Douglas C. Butler whose telephone number is 703-308-2575. The examiner can normally be reached on m-f 5:30 am to 2pm.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Douglas C. Butler  
Primary Examiner  
Art Unit 3683

8/18/04

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